

HONORABLE JUDGE BENJAMIN H. SETTLE  
MAGISTRATE JUDGE J. RICHARD CREATURA

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

WILLIAM MARTIN,

Plaintiff,

v.

JEFF UTTECHT, et al.,

Defendants.

NO. 3:18-cv-05929-BHS-JRC

DEFENDANTS' ANSWER TO  
PLAINTIFF'S SECOND  
AMENDED CIVIL RIGHTS  
COMPLAINT BY A PRISONER  
UNDER 42 U.S.C. § 1983

Defendants, JEFFREY UTTECHT, STEPHEN BOLINGER, JOSHUA CRUGER, JERRY WONDERS, and SHAWNA NISSEN, through their attorneys of record, ROBERT W. FERGUSON, Attorney General, and MARKO L. PAVELA, Assistant Attorney General, hereby submit the following Answer to Plaintiff's Second Amended Civil Rights Complaint by a Prisoner Under 42 U.S.C. § 1983 ("Complaint") at ECF No. 11. Under Fed. R. Civ. P. 8(b), Defendants generally deny each allegation of fact contained in Plaintiff's Complaint unless the allegation of fact is expressly admitted. Defendants will not respond to legal arguments contained in Plaintiff's Complaint and will deny them if it is unclear whether Plaintiff is asserting a factual or legal claim.

**I. PREVIOUS LAWSUITS**

Defendants are without sufficient knowledge or information to admit or deny as to Plaintiff's previous litigation, if there has been any, and therefore deny.

## II. PLACE OF PRESENT CONFINEMENT

Defendants admit that Washington State Department of Corrections (“Department”) prisons, including the Monroe Correctional Complex, where Plaintiff was previously housed, and the Airway Heights Corrections Center, where Plaintiff is currently housed, have grievance procedures available, and that Plaintiff has filed grievances that appear at least somewhat related to the facts alleged by Plaintiff in this lawsuit. Defendants deny Plaintiff has “completed” the grievance process.

## III. PARTIES TO THIS COMPLAINT

A. Defendants admit that William Martin, DOC 401212, is the Plaintiff in this lawsuit, but deny that Plaintiff is at the Monroe Correctional Complex, as Plaintiff has since transferred to the Airway Heights Corrections Center.

B. Defendants admit that Jeffrey Uttecht has been named as a Defendant, and that Mr. Uttecht is the Superintendent of the Coyote Ridge Corrections Center.

C. Defendants admit that Steven Bolinger, Jerry Wonders, Shawna Nissen, and Joshua Cruger have also been named as Defendants.

## IV. STATEMENT OF CLAIM

Defendants deny that Plaintiff has been “targeted” for harassment by Defendants Wonders and Nissen.

Defendants deny both of the two troubling and unprofessional searches alleged by Plaintiff, and the distasteful and inappropriate commentary that Plaintiff alleges occurred during those searches as well. In particular, Defendants deny “excessively groping” the Plaintiff, and the comments Plaintiff alleges were made in regards to Plaintiff’s sexual orientation.

Defendants deny showing “malice” or violating Plaintiff’s 8th Amendment rights.

Defendants deny discriminating against Plaintiff in violation of Plaintiff’s 14th Amendment rights.

1 Defendants deny any “misconduct” which could have violated Plaintiff’s 8th, 1st, or  
2 14th Amendment rights.

3 Defendants admit Plaintiff was infracted for violating WAC 137-25-030 (549),  
4 Providing False Information, but that this infraction has since been overturned  
5 administratively. Defendants deny any of the inappropriate statements or conduct Plaintiff  
6 alleges to have occurred at the related disciplinary hearing for this infraction.

7 Defendants deny Plaintiff’s lawsuit has merit, and that Plaintiff should be appointed  
8 counsel.

9 Defendants deny Plaintiff is entitled to any relief in this matter.

#### 10 **V. AFFIRMATIVE DEFENSES**

11 Having answered the allegations of Plaintiff’s Complaint, and by way of further answer  
12 and affirmative defenses, Defendants affirmatively allege:

13 1. Plaintiff has failed to state a claim upon which relief can be granted, because  
14 he has not alleged facts that rise to the level of a civil rights violation under 42 U.S.C. § 1983,  
15 and because Plaintiff has failed to allege the personal participation of one or more  
16 Defendants.

17 2. Plaintiff failed to properly exhaust one or more of his claims.

18 3. Plaintiff’s claims may be barred by statutes of limitations.

19 4. The actions of the Defendants furthered legitimate penological goals and are  
20 therefore constitutional even if they infringed upon a fundamental constitutional right.

21 5. Defendants, at all times, acted in good faith in the performance of their duties and  
22 are therefore immune from suit for the matters charged in Plaintiff’s Complaint.

23 6. The Western District of Washington is an inappropriate venue for this lawsuit.

24 7. Defendants are entitled to qualified immunity.

25 8. Defendants reserve the right to allege additional affirmative defenses after the  
26 completion of discovery.

1 Having fully answered the Plaintiff's Complaint and having stated affirmative defenses,  
2 Defendants pray for judgment dismissing the Plaintiff's Complaint and action. Defendants also  
3 reserve the right to request costs and reasonable attorney's fees.

4 **VI. JURY DEMAND**

5 Should this matter proceed to trial, Defendants demand that all issues of fact be determined  
6 by a jury.

7 RESPECTFULLY SUBMITTED this 5th day of August, 2019.

8 ROBERT W. FERGUSON  
9 Attorney General

10 s/ Marko L. Pavela  
11 MARKO L. PAVELA, WSBA #49160  
12 Assistant Attorney General  
13 Corrections Division  
14 P.O. Box 40116  
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**CERTIFICATE OF SERVICE**

I certify that on the date below I caused to be electronically filed the DEFENDANTS' ANSWER TO PLAINTIFF'S SECOND AMENDED CIVIL RIGHTS COMPLAINT BY A PRISONER UNDER 42 U.S.C. § 1983 with the Clerk of the Court using the CM/ECF system which will send notification of the filing to the following CM/ECF participants:

WILLIAM MARTIN DOC #401212  
AIRWAY HEIGHTS CORRECTIONS CENTER  
P.O. BOX 2049  
AIRWAY HEIGHTS WA 99001-2049  
docahccinmatefederal@doc1.wa.gov

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED this 5th day of August, 2019, at Olympia, Washington.

s/ Amy Jones  
\_\_\_\_\_  
AMY JONES  
Legal Assistant  
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